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October 1, 2008

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Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Presentation
IB Docket No. 95-91
WT Docket No. 07-293

Dear Ms. Dortch:

On September 30, 2008, Michael Lewis of Wiley Rein, LLP and I accompanied James Blitz of Sirius XM Radio, Inc. ("Sirius XM") in a meeting with Angela Giancarlo of Commissioner McDowell's office to discuss issues associated with the above-captioned proceedings. The attached handouts were provided to Ms. Giancarlo and, along with pleadings previously filed by Sirius XM, formed the basis of our discussions.

Please contact me if there are any questions on this filing.

Sincerely,

/s/ Robert L. Pettit
Robert L. Pettit
Counsel to Sirius XM Radio, Inc.

cc: Angela Giancarlo

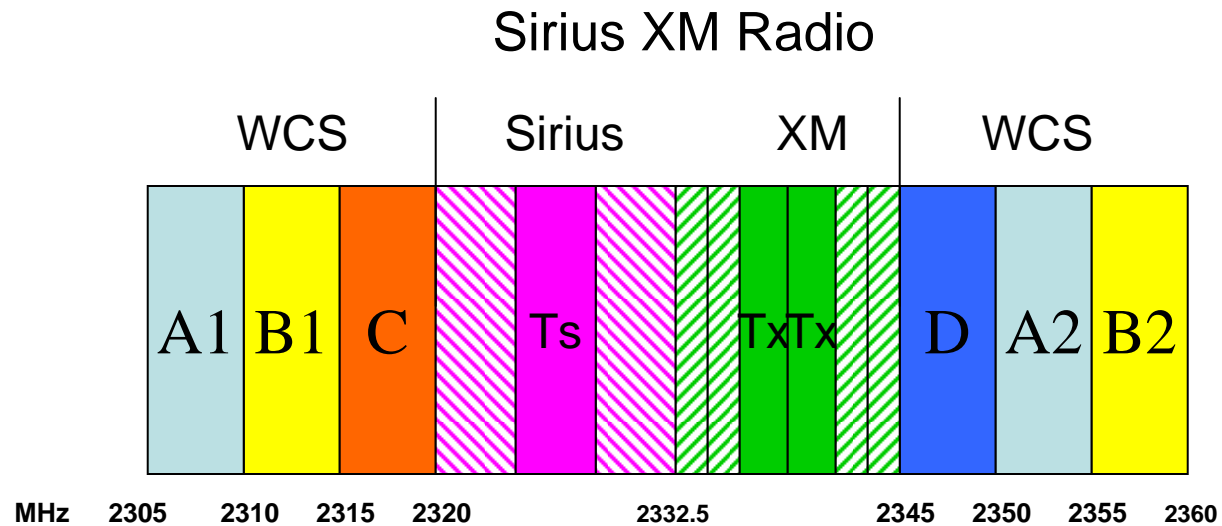
Satellite Radio Repeaters: 11 Years and Still Waiting

- Two proceedings are at issue: In one (IB Docket No. 95-91), the FCC has been considering for more than 11 years permanent licensing rules for satellite radio terrestrial repeaters. In the second (WT Docket No. 07-293), WCS licensees are seeking to convert their previously auctioned allocation into primarily a mobile service – in bands immediately adjacent to the spectrum that nearly 20 million existing satellite radio consumers use to receive satellite service.
- It's time for the Commission to resolve these proceedings. Sirius XM has waited for *more than 11 years* to get permanent licensing rules for its repeater network.
 - Sirius XM needs terrestrial repeaters to ensure reception in areas where satellite coverage is limited due to buildings, trees, or road obstructions. The FCC knew when it first authorized satellite radio that the service would need repeaters, but when it couldn't adopt rules before service was to start in 2001, it authorized Sirius XM to begin operating under Special Temporary Authority.
 - WCS licensees have argued (with little technical support) that Sirius XM's terrestrial repeaters interfere with their use of the spectrum. But this claim is specious. After 11 years the record is sufficiently complete and the differences sufficiently narrow that the FCC can resolve this proceeding *now*.
 - There's no logic to linking the adoption of repeater licensing rules to the WCS proceeding. They have nothing to do with each other.
- Any delay in providing WCS service is due to the WCS interests' desire to change the terms of their FCC authorizations to allow mobile operations in WCS bands, but the available technical data¹ shows that there's a high probability of interference to satellite radio reception from mobile WCS devices in immediately adjacent spectrum bands.
 - In 1997, the Commission adopted rules for the WCS service specifically designed to protect satellite radio consumers from mobile WCS operations. The laws of physics have not changed, and the technical data submitted by Sirius XM in these proceedings confirm the FCC's earlier determination.
 - These limits on WCS spectrum use resulted in an auction that raised a total of \$13.7 million dollars for 30 MHz of spectrum (some WCS licenses sold for \$1). The changes the WCS licensees now seek would provide them with a windfall at the expense of satellite radio, which paid \$173 million for licenses at auction.
 - Sirius XM has submitted a statistical analysis that demonstrates a high probability (as high as 24%) of interference to satellite radio reception from mobile WCS devices. In other words, mobile WCS devices could mute – not disrupt, but mute – 24% of satellite radios in real-world circumstances.

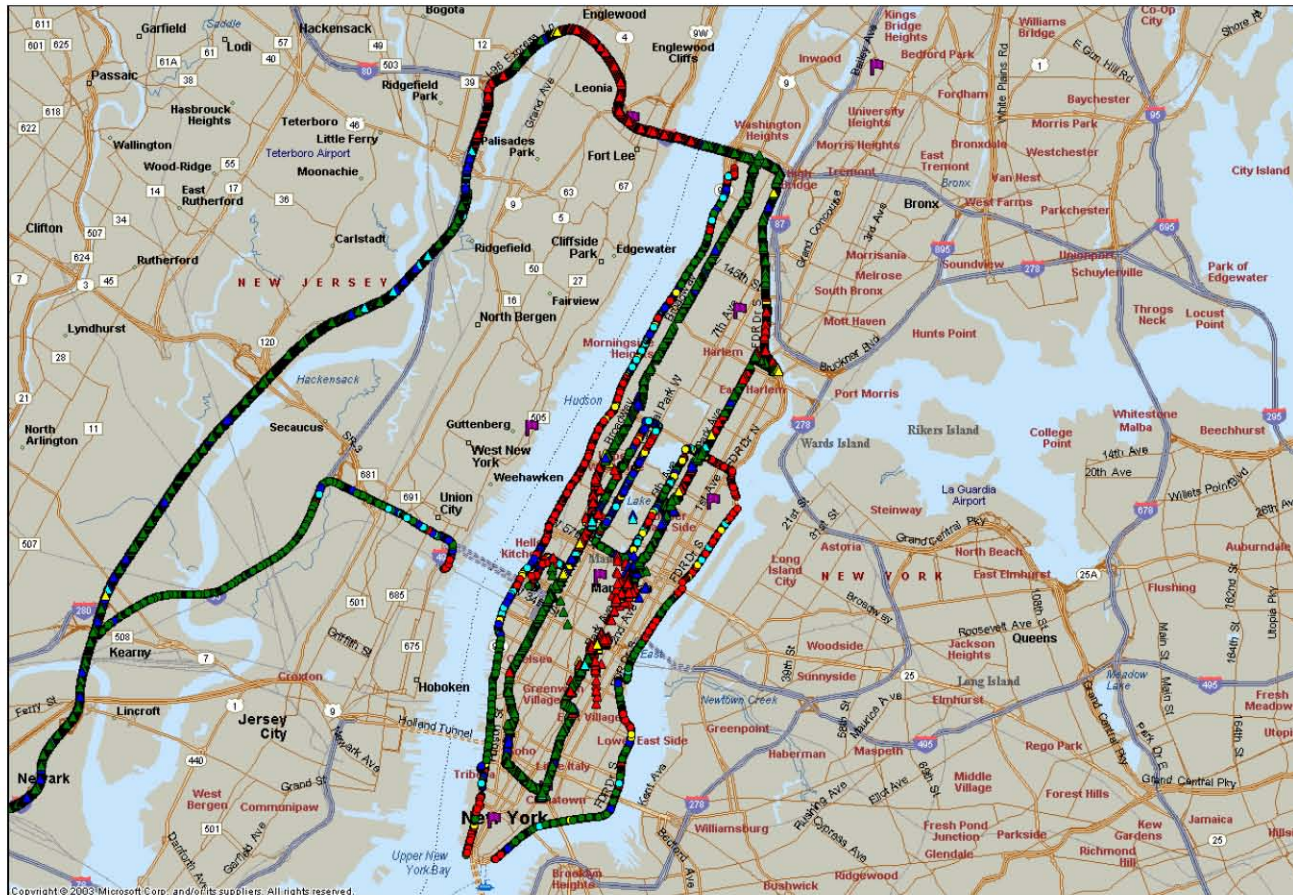
¹ Sirius XM had hoped that independent third-party testing (paid for by the parties and overseen by FCC staff) would confirm the technical facts, but the WCS Coalition has refused to participate.

- WCS could have been providing wireless broadband service to underserved, rural communities for the past 10 years. In fact, AT&T currently uses its WCS spectrum to provide fixed broadband service, which demonstrates that the WCS spectrum can be used for broadband today without any rule modifications or harmful interference to satellite radio.
- Rural areas do not lack the spectrum needed to deploy mobile broadband systems. The FCC has allocated some 600 MHz of spectrum for mobile broadband applications and even more exists in unlicensed allocations. There is only 25 MHz of spectrum allocated for satellite radio.
- Sirius XM technical studies confirm that the WCS frequencies immediately adjacent to satellite radio (*i.e.*, in the WCS C and D blocks) are clearly not suitable for mobile services. But Sirius XM remains open to discussing appropriate power limits and out-of-band emissions restrictions to allow mobile operations for frequencies further removed from the boundaries of the satellite radio allocation.

Satellite Radio and WCS Bandplan



Even in Manhattan Satellite Delivery Provides Significant Service Levels



Green areas
denote satellite
delivered
service